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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,539	09/19/2003	Robert Berghash	20705.0 (Berghash et al.)	5912
1342	7590	09/22/2004	EXAMINER	
PHILLIPS LYTLE LLP INTELLECTUAL PROPERTY GROUP 3400 HSBC CENTER BUFFALO, NY 14203-3509				ARYANPOUR, MITRA
ART UNIT		PAPER NUMBER		
		3711		

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/665,539	BERGHASH ET AL. <i>CN</i>
	Examiner	Art Unit
	Mitra Aryanpour	3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 September 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 9, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kraemer (5,816,961).

Regarding claim 1, Kraemer discloses a hand shield adapted for use with a hockey stick, comprising: a flexible shield portion (bell shaped housing 26) having a convex outer surface and an opening configured to accommodate a portion of a hockey stick that may be passed therethrough (see figure 3); and an interior grip portion (internal splines tapered pilots tapered to increments 48) connected to said shield portion (26) and extending away from said shield portion and configured so as to slidably embrace said hockey stick (see figures 5 and 6).

Regarding claim 2, Kramer shows said interior grip portion (48) extends away from the perimeter of said opening (see figure 4).

Regarding claim 3, Kramer shows said interior grip portion (48) comprises a plurality of generally parallel flexible tabs (see figure 6).

Regarding claim 9, Kramer further shows a hockey stick (12).

Regarding claim 10, Kramer shows the hockey stick (12) comprises a shaft (14) and a blade (see column 2, lines 37-40).

Additionally:

3. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Locarno et al (6,113,508).

Regarding claim 1, Locarno et al discloses a hand shield adapted for use with a hockey stick, comprising: a flexible shield portion (the broadest reasonable interpretation of shield portion would include cap 18) having a convex outer surface (see figure 9; the outer surfaces bulges outwardly) and an opening configured (recessed base 38) to accommodate a portion of a hockey stick (12) that may be passed therethrough (see figure 1); and an interior grip portion (rubber sheath 36; see figure 10) connected to said shield portion (cap 18) and extending away from said shield portion and configured so as to slidably embrace said hockey stick (as best seen in figure 10, the rubber sheath includes interior sidewalls which defines the recessed base 38).

Regarding claim 2, Locarno et al shows said interior grip portion (rubber sheath 36) extends away from the perimeter of said opening (see figure 10).

Regarding claim 3, Locarno et al shows said interior grip portion (rubber sheath 36) comprises a plurality of generally parallel flexible tabs (see figure 10; the interior sidewalls not identified with a reference numeral).

Regarding claim 4, Locarno et al shows said opening (recessed base 38) is generally rectangular (see figure 10).

Regarding claim 5, Locarno et al shows said opening (recessed base 38) is configured so as to accommodate multiple cross-sectional configurations of said hockey stick (10).

Regarding claim 6, Locarno et al shows said configurations is a rectangular cross-section (see figure 10).

Regarding claim 7, Locarno et al shows the shield (cap 18) to be adapted for use with a hockey stick (10) having a fixed butt end (not identified with a reference numeral, but the upper portion of shaft 12), wherein the perimeter of said opening is configured such that said hockey stick may be passed through said opening (see figure 1).

Regarding claim 8, Locarno et al shows the perimeter of said opening is flexible.

Regarding claim 9, Locarno et al shows a hockey stick (10).

Regarding claim 10, Locarno et al shows the hockey stick (10) comprises a shaft (12) and a blade (14).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brine, Jr. et al; Dolan et al; Duplin; Rigsby; Bieganowski; Powell; Root ; Gardner et al ; Zalkind ; Grignon ; Stafford ; Bulbrook.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 703-308-3550. The examiner can normally be reached on Monday - Friday 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA
16 September 2004



MITRA ARYANPOUR
PATENT EXAMINER